

to be some other kind of tax, you may do so. But you have to determine what it is.

DELEGATE J. CLARK (presiding): Delegate Grumbacher.

DELEGATE GRUMBACHER: As I was asking, in the past, though, the provision for tax I believe was that the legislature said it shall be real estate tax as set by the Board of Public Works.

DELEGATE J. CLARK (presiding): Delegate Sherbow.

DELEGATE SHERBOW: No. The Board of Public Works does not set a tax. The tax is levied by the State through the legislature. All the Board of Public Works does is make the calculations as to how much that tax is.

DELEGATE J. CLARK (presiding): Delegate Grumbacher.

DELEGATE GRUMBACHER: I am sorry, sir.

You then mean the rate is set by the Board of Public Works?

DELEGATE SHERBOW: They do the mechanical calculations. That is all.

DELEGATE GRUMBACHER: Could this be done again under this particular provision in that the legislature could require the Board of Public Works, or whatever the title of the Board may be, to set the rate?

DELEGATE SHERBOW: Yes, they could say by real estate tax, and use the identical language you used in the past, because it is a tax, and that is all this says; it is a tax.

DELEGATE J. CLARK (presiding): Delegate Grumbacher.

DELEGATE GRUMBACHER: Would that require the board, whatever the board's name were, to set the tax at the new rate?

DELEGATE SHERBOW: The Board is not setting the tax. No amount of language is going to put the responsibility on the Board. All the Board does is determine the rate. The legislature is the one that will have to determine the tax. If the governor signs the bill, then it becomes law. The amount of the tax rate and how it falls is then simply calculated by the Board of Review or whatever you choose to call it. They do not set a tax. They have no taxing power.

DELEGATE J. CLARK (presiding): Delegate Grumbacher.

DELEGATE GRUMBACHER: I am sorry that I used the improper word.

Could the legislature require the Board to set the rate to cover what they had put into the capital budget?

DELEGATE SHERBOW: The legislature could, by using the identical language it uses now applicable to the Board of Public Works.

DELEGATE GRUMBACHER: Require —

DELEGATE SHERBOW: They would have to carry out the law, certainly.

DELEGATE J. CLARK (presiding): Delegate Grumbacher.

DELEGATE GRUMBACHER: Thank you.

There is one other item that bothered me on this particular section. In this case can the legislature cut the appropriations of the governor and substitute therefor their own items in this capital budget?

DELEGATE SHERBOW: No, the legislature could not cut the governor's budget, and then in its place put in what they want to put in. It would be a supplementary appropriation bill by the legislature. They then would have to provide for it as a supplementary appropriation bill, providing the tax for principal and interest.

DELEGATE J. CLARK (presiding): Delegate Grumbacher.

DELEGATE GRUMBACHER: I am not allowed to argue at this point, and I do not know how to put the question to say I am not sure. I would like to ask you, sir, to re-examine the wording there. I think that perhaps there may be a different interpretation from the one you just gave, sir.

DELEGATE J. CLARK (presiding): Delegate Sherbow.

DELEGATE SHERBOW: Let me go over the language with you. I think you raised a question, Delegate Grumbacher, about which there may be some doubt. I think Mr. Lewis raises the same questions, also.

My understanding of what we have here is that any appropriation that is in addition to or exceeds the capital appropriations shall provide for revenue necessary to pay the debt service required thereby by a tax to be levied as prescribed therein.

Now, there is no reference here to whether or not you do not have to carry that